

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-74—sSB 1112

Environment Committee

Judiciary Committee

**AN ACT CONCERNING BOATING UNDER THE INFLUENCE AND
OTHER REVISIONS TO ENVIRONMENT RELATED STATUTES**

SUMMARY: This act makes numerous changes to the boating under the influence statutes, including (1) specifying that a conviction for reckless boating results in the suspension of a person's boating rights; (2) reducing the minimum time between chemical analysis tests from 30 to 10 minutes; (3) adding to the blood and urine samples that are permissible evidence; and (4) requiring prosecutors to specify reasons for a reduced, nolle, or dismissed boating under the influence charge.

It allows sworn environmental protection conservation officers to administer oaths for affidavits, statements, depositions, complaints, or reports made to or by the officers.

The law requires a person to obtain a fishing license in order to take, attempt to take, or assist in taking any fish or bait species. The act exempts a first time violator from the \$87 fine and requires the case to be dismissed if the person provides proof of purchasing the required license after the violation but before the fine is imposed.

The act requires, instead of authorizes, the environmental protection commissioner to designate one day a year when no license is required for recreational fishing.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2011, except for the environmental protection conservation officer and fishing provisions, which are effective October 1, 2011.

BOATING UNDER THE INFLUENCE

Suspension of Boating Rights

The act specifies that a conviction for 1st or 2nd degree reckless boating under the influence will result, in addition to fines, imprisonment, or both, in the suspension of the person's (1) safe boating certificate or certificate of personal watercraft operation (which are required for legal boating) or (2) right to operate a vessel that requires a safe boating certificate.

Time Between Tests

The law specifies the circumstances under which chemical test results (blood, urine, or breath) are admissible in criminal prosecutions for boating under the influence (1st and 2nd degree), reckless boating under the influence, 2nd degree manslaughter with a vessel, and hunting under the influence. Under prior law, a

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second similar test had to be performed at least 30 minutes after the initial test. The act reduces the time period between tests to a minimum of 10 minutes.

Blood and Urine Samples as Admissible Evidence

Under existing law, blood samples collected at a hospital after an accident are competent evidence to establish probable cause for a person's arrest under the boating under the influence law.

The act makes blood or urine samples collected at an accident scene or on the way to the hospital and urine samples collected at the hospital, permissible evidence that may be seized and used in prosecutions for boating under the influence, reckless boating, and manslaughter in the 2nd degree with a vessel.

Prosecutor Must State Reasons for Reduction, Nolle, or Dismissal

By law, if a person is charged with boating under the influence, the charge cannot be reduced, nolle, or dismissed unless the prosecuting attorney states in open court his or her reasons for the action. The act extends this requirement to a person charged with 2nd degree manslaughter with a vessel and 1st or 2nd degree reckless boating under the influence.

OLR Tracking: JLK:KS:PF:ro